

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

STACY ZELLE

(b) County of Residence of First Listed Plaintiff MONTGOMERY
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
CRAIG THOR KIMMEL, KIMMEL & SILVERMAN, P.C.
30 EAST BUTLER PIKE, AMBLER, PA 19002
PHONE: (215) 540-8888 EXT. 116

DEFENDANTS

PORTFOLIO RECOVERY ASSOCIATES, LLC, a wholly-owned subsidiary of
PORTFOLIO RECOVERY ASSOCIATES, INC.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE:

IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
15 U.S.C. § 1692 et seq.

Brief description of cause:

FAIR DEBT COLLECTION PRACTICES ACT

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

07/16/2015

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 11 St. Dunstons Road, Hatboro, PA 19040

Address of Defendant: 120 Corporate Boulevard, Norfolk, VA 23502

Place of Accident, Incident or Transaction: _____
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases
(Please specify) 15 U.S.C. § 1692 et seq.

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases

(Please specify) _____

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, CRAIG THOR KIMMEL, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 07-16-15

Attorney-at-Law

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

57100

Attorney I.D.#

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 07-16-15

Attorney-at-Law

57100

Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

STACY ZELLE

v.

PORTFOLIO RECOVERY ASSOCIATES, LLC,

a wholly-owned subsidiary of
PORTFOLIO RECOVERY ASSOCIATES, INC.

CIVIL ACTION


NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ()

07-16-15
Date


Attorney-at-law

Plaintiff, Stacy Zelle
Attorney for

215-540-8888 x 116

877-788-2864

kimmel@creditlaw.com

Telephone**FAX Number****E-Mail Address**

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE**
3 **EASTERN DISTRICT OF PENNSYLVANIA**

4 STACY ZELLE,)

5 Plaintiff)

6 v.)

7) **Case No.:**

8 PORTFOLIO RECOVERY)
9 ASSOCIATES, LLC, a wholly-owned)
10 subsidiary of PORTFOLIO)
11 RECOVERY ASSOCIATES, INC.,)

8) **COMPLAINT AND DEMAND FOR**
9) **JURY TRIAL**

10) **(Unlawful Debt Collection Practices)**
11)

11 Defendant)

12 **COMPLAINT**

13
14 STACY ZELLE (“Plaintiff”), by and through her attorneys, KIMMEL &
15 SILVERMAN, P.C., alleges the following against PORTFOLIO RECOVERY
16 ASSOCIATES, LLC, a wholly-owned subsidiary of PORTFOLIO RECOVERY
17 ASSOCIATES, INC. (“Defendant”):
18

19 **INTRODUCTION**

20 1. Plaintiff’s Complaint is based on the Fair Debt Collection Practices
21 Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).
22

23 **JURISDICTION AND VENUE**

24 2. Jurisdiction of this court arises pursuant to 15 U.S.C. § 1692k(d),
25 which states that such actions may be brought and heard before “any appropriate

1 United States district court without regard to the amount in controversy,” and 28
2 U.S.C. § 1331 grants this court original jurisdiction of all civil actions arising
3 under the laws of the United States.
4

5 3. Defendant conducts business in the Commonwealth of Pennsylvania
6 and therefore, personal jurisdiction is established.

7 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).
8

9 **PARTIES**

10 5. Plaintiff is a natural person residing in Hatboro, Pennsylvania 19040.

11 6. Plaintiff is a “consumer” as that term is defined by 15 U.S.C. §
12 1692a(3).
13

14 7. Defendant is a national debt collection company with corporate
15 headquarters located at 120 Corporate Boulevard, Norfolk, Virginia 23502.

16 8. Defendant is a debt collector as that term is defined by 15 U.S.C. §
17 1692a(6), and sought to collect a consumer debt from Plaintiff.
18

19 9. Portfolio Recovery Associates, Inc., through its wholly-owned
20 subsidiary, Portfolio Recovery Associates, LLC, purchases, manages and collects
21 debts.
22

23 10. Defendant acted through its agents, employees, officers, members,
24 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
25 representatives, and insurers.

FACTUAL ALLEGATIONS

11. At all relevant times, Defendant was attempting to collect an alleged consumer debt from Plaintiff.

12. The alleged debt, a Sears Citibank credit card account, was primarily for personal, family, or household purposes.

13. Beginning in March 2015, and continuing through May 2015, Defendant contacted Plaintiff on her home telephone in its attempts to collect a consumer debt.

14. Defendant called Plaintiff, on average, once a day in its attempts to collect a debt.

15. It was annoying and harassing for Plaintiff to be called on her home telephone with such frequency.

16. Desiring to stop the repeated telephone calls, on more than one occasion, Plaintiff spoke with Defendant's collectors to advise them to stop calling her.

17. Defendant heard Plaintiff's instructions to stop calling her.

18. Defendant, however, refused to update its records to restrict telephone calls to Plaintiff's home telephone.

19. Rather, Defendant continued to call Plaintiff on her home telephone.

20. When Plaintiff stopped answering Defendant's calls, in May 2015,

1 Defendant called her place of employment and left a message with her co-worker,
2 disclosing its name and that it was calling about a personal matter.

3
4 21. It was embarrassing to Plaintiff to have her co-worker learn that she
5 was being contacted by a debt collector.

6 22. At no time did Defendant have Plaintiff's permission to disclose debt
7 information to any third party, including her co-worker.

8
9 23. Defendant's actions as described herein were made with the intent to
10 harass, upset, deceive, and coerce payment from Plaintiff.

11 **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES**
12 **ACT**

13 24. In its actions to collect a disputed debt, Defendant violated the
14 FDCPA in the following ways:

15
16 **COUNT I**

17 a. A debt collector violates §1692c(b) of the FDCPA by
18 communicating, in connection with the collection of a debt,
19 with any person other than the consumer, his attorney, a
20 consumer reporting agency if otherwise permitted by law, the
21 creditor, the attorney of the creditor, or the attorney of the debt
22 collector, without the prior consumer of the consumer given
23 directly to the debt collector.

24 b. Here, Defendant violated § 1692c(b) of the FDCPA when it
25

1 communicated, in connection with the collection of a debt, with
2 a third party, Plaintiff's co-worker, without having Plaintiff's
3 express permission to do so.
4

5 **COUNT II**

- 6 a. A debt collector violates § 1692d of the FDCPA by engaging in
7 conduct the natural consequence of which is to harass, oppress,
8 or abuse any person in connection with the collection of a debt.
9
10 b. A debt collector violates § 1692d(5) of the FDCPA by causing
11 a telephone to ring or engaging any person in telephone
12 conversation repeatedly or continuously with intent to annoy,
13 abuse, or harass any person at the called number.
14
15 c. Here, Defendant violated §§ 1692d and 1692d(5) of the
16 FDCPA when it repeatedly called Plaintiff on her home and
17 cellular telephones as frequently as twice a day, as well as
18 continuing to call Plaintiff after having been told to stop calling
19 her.
20

21 **COUNT III**

- 22 a. A debt collector violates § 1692f of the FDCPA by using unfair
23 or unconscionable means to collect or attempt to collect any
24 debt.
25

- 1 b. Here, Defendant violated § 1692f of the FDCPA by failing to
2 update its records to stop calling Plaintiff.

3 WHEREFORE, Plaintiff, STACY ZELLE, respectfully prays for a judgment
4 as follows:

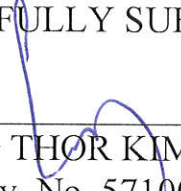
- 5
6 a. All actual damages suffered pursuant to 15 U.S.C. §
7 1692k(a)(1);
8
9 b. Statutory damages of \$1,000.00 for the violation of the FDCPA
10 pursuant to 15 U.S.C. § 1692k(a)(2)(A);
11
12 c. All reasonable attorneys' fees, witness fees, court costs and
13 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
14 § 1693k(a)(3); and
15 d. Any other relief deemed appropriate by this Honorable Court.

16 **DEMAND FOR JURY TRIAL**

17 PLEASE TAKE NOTICE that Plaintiff, STACY ZELLE, demands a jury
18 trial in this case.
19
20
21
22
23
24
25

1 RESPECTFULLY SUBMITTED,

2 Date: 07-16-15

3 By: 
4 CRAIG THOR KIMMEL
5 PA. Atty. No. 57100
6 Kimmel & Silverman, P.C.
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